

that inventorship changes must comply with the requirements of §1.48, foreign priority and domestic benefit information changes must comply with §§1.55 and 1.78, and correspondence address changes are governed by §1.33(a).

(2) An application data sheet providing corrected or updated information may include all of the sections listed in paragraph (b) of this section or only those sections containing changed or updated information. The application data sheet must include the section headings listed in paragraph (b) of this section for each section included in the application data sheet, and must identify the information that is being changed, with underlining for insertions, and strike-through or brackets for text removed, except that identification of information being changed is not required for an application data sheet included with an initial submission under 35 U.S.C. 371.

(d) *Inconsistencies between application data sheet and other documents.* For inconsistencies between information that is supplied by both an application data sheet under this section and other documents:

(1) The most recent submission will govern with respect to inconsistencies as between the information provided in an application data sheet, a designation of a correspondence address, or by the inventor's oath or declaration, except that:

(i) The most recent application data sheet will govern with respect to foreign priority (§1.55) or domestic benefit (§1.78) claims; and

(ii) The naming of the inventorship is governed by §1.41 and changes to inventorship or the names of the inventors is governed by §1.48.

(2) The information in the application data sheet will govern when the inconsistent information is supplied at the same time by a designation of correspondence address or the inventor's oath or declaration.

(3) The Office will capture bibliographic information from the application data sheet. The Office will generally not review the inventor's oath or declaration to determine if the bibliographic information contained therein is consistent with the bibliographic in-

formation provided in an application data sheet. Incorrect bibliographic information contained in an application data sheet may be corrected as provided in paragraph (c)(1) of this section.

(e) *Signature requirement.* An application data sheet must be signed in compliance with §1.33(b). An unsigned application data sheet will be treated only as a transmittal letter.

[65 FR 54668, Sept. 8, 2000, as amended at 65 FR 57054, Sept. 20, 2000; 69 FR 56540, Sept. 21, 2004; 70 FR 54266, Sept. 14, 2005; 72 FR 46837, Aug. 21, 2007; 74 FR 52689, Oct. 14, 2009; 77 FR 48820, Aug. 14, 2012; 78 FR 11055, Feb. 14, 2013]

§ 1.77 Arrangement of application elements.

(a) The elements of the application, if applicable, should appear in the following order:

(1) Utility application transmittal form.

(2) Fee transmittal form.

(3) Application data sheet (see §1.76).

(4) Specification.

(5) Drawings.

(6) The inventor's oath or declaration.

(b) The specification should include the following sections in order:

(1) Title of the invention, which may be accompanied by an introductory portion stating the name, citizenship, and residence of the applicant (unless included in the application data sheet).

(2) Cross-reference to related applications.

(3) Statement regarding federally sponsored research or development.

(4) The names of the parties to a joint research agreement.

(5) Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see §1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified.

(6) Statement regarding prior disclosures by the inventor or a joint inventor.

(7) Background of the invention.

(8) Brief summary of the invention.

(9) Brief description of the several views of the drawing.

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(10) Detailed description of the invention.

(11) A claim or claims.

(12) Abstract of the disclosure.

(13) “Sequence Listing,” if on paper (see §§ 1.821 through 1.825).

(c) The text of the specification sections defined in paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type.

[65 FR 54668, Sept. 8, 2000, as amended at 70 FR 1823, Jan. 11, 2005; 77 FR 48820, Aug. 14, 2012; 78 FR 11055, Feb. 14, 2013]

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a) *Claims under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application.* An applicant in a nonprovisional application, other than for a design patent, or an international application designating the United States of America may claim the benefit of one or more prior-filed provisional applications under the conditions set forth in 35 U.S.C. 119(e) and this section.

(1) The nonprovisional application or international application designating the United States of America must be filed not later than twelve months after the date on which the provisional application was filed, or be entitled to claim the benefit under 35 U.S.C. 120, 121, or 365(c) of an application that was filed not later than twelve months after the date on which the provisional application was filed. This twelve-month period is subject to 35 U.S.C. 21(b) (and § 1.7(a)).

(2) Each prior-filed provisional application must name the inventor or a joint inventor named in the later-filed application as the inventor or a joint inventor. In addition, each prior-filed provisional application must be entitled to a filing date as set forth in § 1.53(c), and the basic filing fee set forth in § 1.16(d) must have been paid for such provisional application within the time period set forth in § 1.53(g).

(3) Any nonprovisional application or international application designating the United States of America that claims the benefit of one or more prior-filed provisional applications must contain, or be amended to contain, a

reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number). If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76(b)(5)).

(4) The reference required by paragraph (a)(3) of this section must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application entering the national stage from an international application under 35 U.S.C. 371, this reference must also be submitted within the later of four months from the date on which the national stage commenced under 35 U.S.C. 371(b) or (f) in the later-filed international application or sixteen months from the filing date of the prior-filed provisional application. Except as provided in paragraph (b) of this section, failure to timely submit the reference is considered a waiver of any benefit under 35 U.S.C. 119(e) of the prior-filed provisional application.

(5) If the prior-filed provisional application was filed in a language other than English and both an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application, the applicant will be notified and given a period of time within which to file, in the prior-filed provisional application, the translation and the statement. If the notice is mailed in a pending nonprovisional application, a timely reply to such a notice must include the filing in the nonprovisional application of either a confirmation that the translation and statement were filed in the provisional application, or an application data sheet eliminating the reference under paragraph (a)(3) of this section to the prior-filed provisional application, or